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July 29, 2014

To All County Election Commission Defendants

*Via E-mail and U.S. Mail*

**Re:** Case No. 3:14-cv-00532-HTW-LRA; *True the Vote, et al v. The Honorable Delbert Hosemann*; In the United States District Court, Southern District of Mississippi, Jackson Division.

Dear Counsel:

I write concerning the above-captioned matter now pending in the Southern District of Mississippi. As you are aware, Mississippi law vests custody of and responsibility for election materials with different officials during various stages of the electoral process. At times, records are in the possession of County Election Commissions. *See* MISS. CODE ANN. §§ 23-15-151, 25-15-153, 23-15-231, 23-15-247. During other times, records are held for safekeeping by Circuit Clerks. *See* MISS. CODE ANN. § 25-15-135. And, in primary elections, records are in the possession of the County Executive Committees during the time the election is conducted, provided the Executive Committee does not enter into certain agreements with its County Election Commissions. *See* MISS. CODE ANN. § 23-15-265, 23-15-265, 23-15-267, 23-15-333, and 23-15-335.

Plaintiffs initially sued the Secretary of State of Mississippi as the State's chief election official under state and federal law. *See* § 42 U.S.C. 1973gg-8; MISS. CODE ANN. § 23-15-211.1(1). Plaintiffs later sued discreet counties' election commissions and clerks out of abundance of caution and in recognition that requests made under the NVRA were made to such officials.

While fully reserving the right to amend any future complaint under the Federal Rules of Civil Procedure or join parties to the above-captioned matter, Plaintiffs are willing to enter into an agreement that would not directly pursue the county defendants in this suit without prejudice to Plaintiffs' claims. Pursuant to Judge Atlas's suggestion at the July 16, 2014 telephonic status conference hearing and July 24, 2014 preliminary injunction hearing, Plaintiffs agree to not move for relief from the county defendants, provided the county defendants agree (1) the Secretary of State, as the Chief Election Officer, provides the counties with direction regarding



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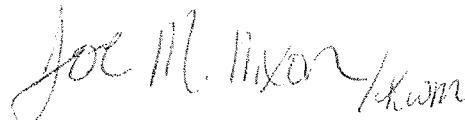
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the maintenance (and release) of the requested records while the records are in the counties' control, and (2) the counties agree to be bound by any Order made in this case.

The Secretary of State has the power under Mississippi state law to issue instructions and procedures for the safe and efficient use of electronic voting systems and to carry out the election code. Subject to such instructions and procedures, the commissioners of elections shall have the power to make all necessary and desirable provisions for the conduct of elections. 23-15-485. In light of such authority and the Secretary's role as chief election officer, we believe such an agreement would be appropriate in this case. To indicate your agreement to our proposal, please sign and return this correspondence to me.

Sincerely yours,



Joseph M. Nixon

JMN/nl

AGREED TO BY:

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(Printed Name)

ccs:

**Copiah County, Mississippi Election  
Commission**  
c/o Elise Berry Munn  
Berry & Munn, PA  
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Hazlehurst, MS 39083

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**Hinds County, Mississippi Election  
Commission**  
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Simon & Teeuwissen, PLLC  
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Jackson, MS 39236

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**Jefferson Davis County, Mississippi  
Election Commission**

c/o Robert E. Sanders  
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**Lauderdale County, Mississippi Election  
Commission**

c/o Lee Thaggard  
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**Leake County, Mississippi Election  
Commission**

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**Madison County, Mississippi  
Election Commission**

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**Rankin County, Mississippi Election  
Commission**

c/o Craig L. Slay  
Rankin County Board of Supervisors  
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**Simpson County, Mississippi Election  
Commission**

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Simpson County Board of Supervisors  
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Mandenhall, MS 39114

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**Yazoo County, Mississippi Election  
Commission**

Yazoo County Courthouse  
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Yazoo City, MS 39194

*Via CM-RRR*